

## Chapter 18.75

### CULTURAL RESOURCES PRESERVATION

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#### **18.75.010 Purpose.**

The purpose of this chapter is to promote the public health, safety and general welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings, structures, signs, objects, features, sites, places and areas within the city that reflect special elements of the city's architectural, artistic, cultural, engineering, aesthetic, historical, political, social and other heritage for the following reasons:

- A. To safeguard the heritage of the city as embodied and reflected in such resources;
- B. To encourage public knowledge, understanding and appreciation of the city's past;
- C. To foster civic and neighborhood pride and a sense of identity based on the recognition and use of cultural resources;
- D. To promote the enjoyment and use of cultural resources appropriate for the education and recreation of the people of the city;
- E. To preserve existing architectural styles and design preferences reflecting phases of the city's history and to encourage complementary contemporary design and construction;

- F. To enhance property values and to increase economic and financial benefits to the city and its inhabitants;
- G. To protect and enhance the city's attraction to tourists and visitors (thereby stimulating business and industry);
- H. To identify as early as possible and resolve conflicts between the preservation of the cultural resources and alternative land uses;
- I. To integrate the preservation of cultural resources and the extraction of relevant data from such resources into public and private land management and development processes;
- J. To conserve and recycle valuable community resources by continuing use and maintenance of the existing built environment. (Ord. 859 N.S. § 1 (part), 1988)

#### **18.75.020 Area of application.**

This chapter shall apply to all cultural resources within the city. (Ord. 859 N.S. § 1 (part), 1988)

#### **18.75.030 Definitions.**

As used in this chapter:

- A. "Alteration" means any exterior change or modification, through public or private action, of any cultural resource or of any property located within an historic district including, but not limited to, exterior changes to or modification of structure, architectural details or visual characteristics such as paint color and surface texture, grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbance of archeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property.
- B. "Cultural resources" means improvements, buildings, structures, signs, features, sites, places, areas or other objects of scientific, aesthetic, educational, cultural, architectural or historical significance to the citizens of the city.
- C. "Exterior architectural feature" means the architectural elements embodying style, design, general arrangement and components of all of the outer surface of an improvement including, but not limited to, the kind, color and texture of the building materials and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvements.

D. "Historic district" means any area containing improvements which have a special character, historical interest or aesthetic value or which represent one or more architectural periods or styles typical to the history of the city, and which improvements constitute a distinct section of the city that has been designated an historic district pursuant to this chapter.

E. "Improvements" means any building, structure, place, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

F. "Designated structure" (landmark, cultural resource, historic structure) means any improvement that has special historical, cultural, aesthetic or architectural character, interest or value as part of the development, heritage or history of the city, the state or the nation and that has been designated pursuant to this chapter.

G. "Designated site" (historic site, cultural resource, site, landmark site) means a parcel or part thereof on which a cultural resource is situated, and any abutting parcel or part thereof constituting part of the premises, on which the cultural resource is situated, and which has been designated a designated site pursuant to this chapter.

H. "Object" means a material thing of functional, aesthetic, cultural, symbolic or scientific value, usually by design or nature movable.

I. "Preservation" means the identification, study, protection, restoration, rehabilitation or enhancement of cultural resources.

J. "Good repair" means to preserve against decay and deterioration; to reduce the incidence of demolition by neglect. (Ord. 970 N.S. § 4, 1990; Ord. 859 N.S. § 1 (part), 1988)

#### **18.75.050 Cultural resources designation--Planning commission review required.**

Cultural resources and historic districts shall be established by the planning commission in the following manner:

A. Any person may request the designation of an improvement as a cultural resource or the designation of a historic district by submitting an application of such designation to the commission. The planning commission or city council may also initiate such proceedings on their own motion.

B. The planning commission may conduct a study of the proposed designation and make a preliminary determination based on such documentation as it may require as to its appropriateness for consideration. If the planning commission determines that the application merits consideration, but only if it so determines, it shall schedule a public hearing with due speed.

C. No building, alteration, demolition or removal permits for any improvement, building or structure within the proposed cultural resource shall be issued while the public hearing or any appeal related thereto is pending.

D. Should the planning commission decide to schedule a public hearing, notice of the date, place, time and purpose of the hearing shall be given in the manner prescribed in Government Code Sections 65090 and 65091.

E. In the case of a proposed historic district, a public hearing shall be scheduled, and notice of the date, place, time and purpose of the hearing shall be given in the manner prescribed in Government Code Sections 65090 and 65091.

F. At the conclusion of the public hearing for the designation of a proposed cultural resource or historic district, the planning commission shall approve in whole or in part, or disapprove in whole or in part, the application, in writing. (Ord. 1111 N.S. § 50 (part), 1992; Ord. 980 N.S. § 3 (part), 1990)

#### **18.75.060 Cultural resources designation--Criteria.**

For the purposes of this chapter, an improvement may be designated a cultural resource by the planning commission and any area within the city may be designated as a historic district by the commission pursuant to Section 2.36.040 if it meets one or more of the following criteria:

A. Historical, Cultural Importance:

1. Has significant character, interest or value, as part of the development, heritage or cultural characteristics of the city, county, state or nation; or is associated with the life of a person(s) significant in the past, or
2. Is the site of an historic event with a significant effect upon society, or
3. Exemplifies the cultural, political, economic, social or historic heritage of the community; or

B. Architectural, Engineering Importance:

1. Portrays the environment in an era of history characterized by a distinctive architectural style, or
2. Embodies those distinguishing characteristics of an architectural type or engineering specimen, or
3. Is the work of a designer or master building whose individual work has significantly influenced the development of Morgan Hill, or
4. Contains elements of design, detail, materials or craftsmanship which represent a significant innovation; or

C. Geographic Importance:

1. By being part of or related to a square, park or other distinctive area, should be developed or preserved according to plan based on an historic, cultural or architectural motif, or
  2. Owing to its unique location or singular physical characteristics, represents an established and familiar visual feature of a neighborhood, community or city; or
- D. Archaeological Importance:
1. Has yielded, or may be likely to yield information in prehistory or history. (Ord. 1111 N.S. § 50 (part), 1992; Ord. 980 N.S. § 3 (part), 1990)

**18.75.065 Cultural Resources Alteration - Review required.**

It is unlawful for any person to tear down, demolish, construct, alter, remove or relocate any improvement, or any portion thereof, which has been designated a cultural resource or cultural resource site pursuant to the provisions of this chapter, or which lies within an historic district, or to alter in any manner any exterior architectural feature of such a cultural resource, cultural resource site or improvement within an historic district, or to place, erect, alter or relocate any sign within an historic district or on a cultural resource or cultural resource site, without first obtaining written approval to do so in the manner provided in this chapter. Neither shall the building official grant any permit to carry out such work on a designated cultural resource or cultural site or within an historic district, without the prior written approval of the planning commission or community development director as provided in this chapter. This requirement may be waived if the community development director determines that the nature of work is minor or incidental and will not adversely affect the external appearance of existing designated improvement, buildings and structures on the site. (Ord. 1111 N.S. § 50 (part), 1992; Ord. 859 N.S. § 1 (part), 1988)

**18.75.070 Cultural resources alteration--Administrative review procedures.**

The following procedures will be followed in processing applications for approval of alterations to designated cultural resources or cultural sites:

A. The building official shall report any application for a permit to work on a designated cultural resource to the community development director or his authorized representative.

B. If no permit is required to pursue work in a designated cultural resource, whoever is responsible for the work, whether it is the tenant, resident or property owner, shall apply for approval to the community development director directly.

C. Such application shall be accompanied by such materials as are required by the community development director and are reasonably necessary for the proper review of the proposed project.

D. Notice of applications pending before the community development director shall be provided in the manner prescribed in Government Code Sections 65090 and 65091. The director's decision on the cultural resource alteration shall be in writing and shall state the findings of fact and reason relied upon in reaching his decision. This decision may be appealed as per Section 18.75.080. (Ord. 1111 N.S. § 50 (part), 1992; Ord. 970 N.S. § 5, 1990; Ord. 859 N.S. § 1 (part), 1988)

**18.75.075 Cultural resource alteration--Criteria.**

The community development director, or the commission, upon appeal, shall issue an approval for any proposed work as described in Section 18.75.065, only if it is determined that:

A. In the case of a designated cultural resource, the proposed work would not detrimentally alter, destroy or adversely affect any exterior architectural feature; or

B. In the case of any property located within an historic district, the proposed construction, removal, rehabilitation, alteration, remodeling, excavation or exterior alteration conforms to the prescriptive standards as adopted by the commission and does not adversely affect the character of the district; or

C. In the case of construction of a new improvement, building or structure upon a cultural resource site, the exterior of such improvements will not adversely affect and will be compatible with the external appearance of existing designated improvement, buildings and structures on the site.

D. In the case of demolitions, alterations and modifications which are inconsistent with the approval criteria, the community development director may approve such actions based on findings of economic hardship. The community development director may collect any information deemed necessary to determine whether economic hardship has occurred and may solicit expert testimony when required. The information needed to determine economic hardship shall include, but not be limited to those items listed in the submittal requirements for cultural resources designations on file in the community development department. (Ord. 1111 N.S. § 50 (part), 1992; Ord. 970 N.S. § 5, 1990; Ord. 859 N.S. § 1 (part), 1988)

**18.75.077 Demolitions or removal of cultural resources—Planning commission approval required.**

The following procedures will be followed in processing applications for demolition or removal of designated cultural resources or cultural sites:

A. The building official shall report any application for a demolition permit on a designated cultural resource to the community development director.

B. If no permit is required to demolish or remove a designated cultural resource, whoever is responsible for the work, whether it is the tenant, resident or property owner, shall apply for approval to the community development director directly. Applications shall be reviewed by the director and submitted to the planning commission for consideration.

C. The planning commission shall complete its review and shall render its decision after the conclusion of a public hearing on the application. Notice of public hearing shall be provided in the manner prescribed in Government Code Sections 65090 and 65091.

D. In review of permits sought in order to wholly or partially remove or demolish a cultural resource, cultural resource site or historic district, the commission may approve or disapprove the issuance of the permit or permits. This decision may be appealed as per Section 18.75.080. (Ord. 1111 N.S. § 51, 1992)

### **18.75.080 Appeals.**

A. The following actions by the planning commission may be appealed by an interested party to the city council:

1. A determination made after a public hearing that an object, site or structure be designated or not be designated a cultural resource or historic district;

2. The planning commission's decision to grant or not to grant an approval to tear down, demolish, or remove any improvement, or any portion thereof, which has been designated a cultural resource or cultural resource site.

B. The following actions by the community development director may be appealed by an interested party to the planning commission:

1. The director's decision to approve or not to approve alteration to a designated cultural resource or site;

2. The director's decision to allow or not to allow alterations or modifications based on findings of economic hardship per subsection D of Section 18.75.075.

C. In the event that the applicant, any interested person or the city is aggrieved by the decision of the community development director, the aggrieved party may, within ten days of receiving written notification of the director's action, appeal in writing to the planning commission. Notice of appeal shall be in the manner prescribed in Sections 18.64.060 through 18.64.100 of this title. The planning commission may either affirm, modify or reverse the decision of the community development director. Action by the planning commission shall be final, unless there is a further appeal to the city council, in which case, the city council action shall be final. ( Ord. 1111 N.S. § 52, 1992; Ord. 970 N.S. § 6, 1990; Ord. 859 N.S. § 1 (part), 1988)

### **18.75.090 Ordinary maintenance and repair.**

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this chapter that does not involve a change in design, material or external appearance thereof, nor does this chapter prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when the building official certifies to the community development director that such action is required for the public safety due to an unsafe or dangerous condition which cannot be rectified through the use of the California Historical Building Code. (Ord 1111 N.S. § 53, 1992; Ord. 859 N.S. § 1 (part), 1988)



**18.75.100      Duty to keep in good repair.**

A.      The owner, occupant or other person in actual charge of a cultural resource, or an improvement, building or structure in an historic district shall keep in good repair all of the exterior portions of such improvement, building or structure, all of the interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.

B.      It shall be the duty of the building official to enforce this section. (Ord. 859 N.S. § 1 (part), 1988)

**18.75.110      Enforcement and penalties.**

A.      Methods of Enforcement. In addition to the regulations of this chapter, other chapters of this code and other provisions of law which govern the approval or disapproval of applications for permits or licenses covered by this chapter, the building official shall have the authority to implement the enforcement thereof by any of the following means:

1.      Serving notice requiring the removal of any violation of this chapter upon the owner, agent, occupant or tenant of the improvement, building, structure or land;

2.      Calling upon the city attorney to institute any necessary legal proceedings to enforce the provisions of this chapter, and the city attorney is authorized to institute any actions to that end;

3.      Calling upon the chief of police and authorized agents to assist in the enforcement of this chapter.

In addition to any of the foregoing remedies, the city attorney may maintain an action for injunctive relief to restrain or enjoin or to cause correction or removal of any violation of this chapter, or for an injunction in appropriate cases.

B.      Any person who demolishes, alters, or constructs a building or structure in violation of this act shall be required to restore the building or structure and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the city attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty. (Ord. 970 N.S. § 7, 1990; Ord. 859 N.S. § 1 (part), 1988)